



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

## VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

### ORDER BY CONSENT ISSUED TO GOOCHLAND COUNTY Permit No. 179

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Goochland County, for the purpose of resolving certain violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.

6. "Landfill" means the Goochland County Sanitary Landfill currently closed and covered under DEQ Solid Waste Permit ("SWP") number 179.
7. "County" means the County of Goochland, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VSWMR" means Virginia Solid Waste Management Regulations 9VAC 20-80-10 *et. seq.*

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The Goochland County Landfill is a "sanitary landfill" as that term is defined in 9 VAC 20-80-10 of the VSWMR. The Landfill is currently maintained under DEQ Solid Waste Permit Number 179 ("SWP 179").
2. The Department issued a Letter of Agreement on March 14, 2006, in part, to address erosion damage on the northern end of the landfill cap. The County was required to complete the repairs by July 31, 2006.
3. On February 28, 2007, Department staff conducted a compliance inspection of the Landfill. The inspection revealed that the County had not fully implemented the Landfill Gas ("LFG") Remediation Plan, approved and issued as a Permit amendment by DEQ on May 1, 2006, by failing to install a required active gas extraction system when the site continued to report landfill gas exceedences above the lower explosive limit ("LEL") as measured in the probes at the Landfill boundary. According to 9 VAC 20-80-240.B., solid waste disposal facilities must be maintained and operated in accordance with the permit issued. Permit Module XIV requires a facility to implement the active phase of LFG control should the methane continue to exceed the LEL at the facility boundary after three months.
4. LFG monitoring records provided to DEQ showed that readings at each of the quarterly monitoring events have exceeded the LEL for methane in two LFG probes, with readings from 7.7% methane to as high as 34.1%. According to 9 VAC 20-80-280.A.1.b., the concentration of methane gas migrating from a landfill shall not exceed the LEL (5%) at the facility boundary.
5. Quarterly LFG monitoring reports provided to DEQ show exceedences of the LEL as measured at the facility boundary for each quarter of 2006 and the first quarter of 2007. 9 VAC 20-80-280.A.2-4 requires the owner or operator to implement the approved LFG monitoring and control program during the post closure care period until it has been demonstrated that there is no potential for gas migration beyond the facility boundary.

6. Goochland County installed passive gas vents at the landfill in August 2006. In addition the County increased LFG monitoring and installed offsite gas monitoring probes. The County stated that methane concentrations appeared to decline after the passive vent installation and they decided to continue monitoring and allow time for the vents to alleviate the LEL at the facility boundary.
7. Following the installation of gas vents at the landfill in August 2006, DEQ was not notified of the installation of any active LFG extraction system to control the continued migration of landfill gas beyond the facility boundary. 9 VAC 20-80-280.E.1.c requires that when the results of gas monitoring indicates concentrations of methane in excess of the compliance levels required, the operator shall take all immediate steps to protect public health and safety required by the contingency plan; notify DEQ of the problem with an indication of what has been done to resolve the problem; and, implement a remediation plan within sixty (60) days.
8. On April 2, 2007, the Department issued Notice of Violation ("NOV") to the County for violations of SWP 179 and the VSWMR.
9. On April 26, 2007, a meeting was held between representatives of the County and the Department. The County stated that they had installed additional passive gas vents in August of 2006 and were continuing monitoring due to a downward trend in methane concentrations. The County recommended continuing to monitor to determine if the vents would eliminate the problem.
10. At the April 26, 2007, meeting the Department informed the County that the landfill's north end continues to incur erosion damage contrary to 9 VAC 20-80-250 F.1.a. On June 26, 2007, the County informed the Department that the stabilization of the landfill's cap has been completed.
11. The Department conducted a review of Goochland County's monthly LFG monitoring results from January 2007 to January 2008. The results indicate that, with the exception of April of 2007, the LEL for methane from January 2007 through January 2008 was exceeded in at least one probe.
12. On April 15, 2008 the Department met with Goochland County to discuss the LFG issues. The County stated that on July 15, 2005, it connected several adjacent property owners to County water and installed off-site gas monitoring probes to assure that LFG was not migrating into structures beyond the facility boundary. The County plans to initiate the Department approved LFG plan in the permit with minor modifications to the implementation dates, so a permit amendment is not required.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1455(F), orders Goochland County, and Goochland County agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Goochland County, and Goochland County voluntarily agrees, to pay a civil charge of \$11,270 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment must note that it is being made pursuant to this Order and must note the Federal Identification Number for Goochland County. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Goochland County, for good cause shown by Goochland County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Goochland County by DEQ on April 2, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Goochland County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Goochland County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Goochland County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review

of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Goochland County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Goochland County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Goochland County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Goochland County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Goochland County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Goochland County. Notwithstanding the foregoing, Goochland County agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:
- a. Goochland County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Goochland County.


Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Goochland County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Goochland County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 30, 2008.

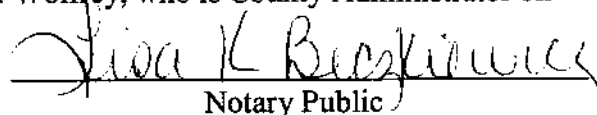
  
Gerard Seeley, Jr., Regional Director  
Department of Environmental Quality

Goochland County voluntarily agrees to the issuance of this Order.

By:   
Date: 5/14/08

Commonwealth of Virginia  
City/County of Goochland

The foregoing document was signed and acknowledged before me this 14th day of May, 2008, by Gregory K. Wolfrey, who is County Administrator on behalf of the County.

  
Notary Public



My commission expires: Sept 30, 2010  
My Notary Registration Number: 3D 317806

## **APPENDIX A**

1. Within thirty (30) days of the issuance of this Order, Goochland County must submit to the Department for review and approval an updated implementation schedule for the installation of the active gas remediation system for inclusion in the Landfill Gas ("LFG") Remediation Plan (Plan).
2. Within sixty (60) days of the issuance of this Order or fifteen (15) days after installation of the electrical connection whichever is later, Goochland County must commence operation of the active gas remediation system.
3. Within thirty (30) days of the installation of the Department approved active gas remediation system, submit to the Department a set of as-built drawings of the system.